IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2493 OF 1994

Smt. Vasanti Vishnu Bhat, .. Petitioner
Vs
M/s Venus Housing Enterprises, .. Respondents
None for the petitioner.
Mr Shekhar Naphade, senior counsel, with Mr Abhay Tikekar and N.R.Gandhi i/b M/s Mahimtura & Co for the respondents.

CORAM : D.B.BHOSALE,J.

DATE : FEBRUARY 23, 2005.

P.C.

1. Heard Mr. Naphade, learned senior counsel for the respondents.

2. This petition is directed against the judgment and order dated 28.4.1994 rendered by the learned Addl.Chief Judge, Small Causes Court in Appeal No.32 of 1994 in Injunction Notice No.731 of 1993 in L.D.Suit No.115 of 1993. By that order the appeal directed against the judgment and order dated 17.2.1993 passed by the learned trial Judge rejecting Injunction Notice No.731 of 1993, was dismissed. This Court, while admitting the writ petition on 29.7.1994, refused to grant an interim relief by recording the reasons. It will be useful to quote paragraph 6 of that order. Paragraph 6 of the order reads thus:

"6. However, on the question of interim relief, I am of the view that the petitioner is interested in somehow defeating the respondent's right of occupying its own premises and using it. After having failed in one round of litigation right upto the Hon'ble Supreme Court, the petitioner has turned around and filed the second suit on the same set of facts. In fact, it is clear that when the petitioner failed to get urgent circulation before the Supreme Court on 3rd December,1993, the petitioner filed the present suit on the 9th December, 1993 when the first suit of 1991 was still pending. As stated earlier, the first suit of 1991 was withdrawn on 1st March, 1994. The right claimed by the petitioner is of a very doubtful nature. Having failed in her attempt to claim tenancy, she is now trying to claim a licence. Under the circumstances mentioned above, I am not inclined to grant any interim order. Hence, interim relief is refused. However, the parties are at liberty to apply for a fixed date of hearing."

3. Mr Naphade, learned senior counsel for the respondents, submits that after the interim relief was refused by this Court by the aforementioned order, the respondents-defendants have obtained possession of the disputed hoarding-site on 19.8.1994. He further submits that the suit has now riped for hearing. Considering that, in my opinion, nothing further survives in the petition and that may be a reason why nobody is appearing on behalf of the petitioner. In the circumstances, I am constrained to dismiss this petition for nonprosecution. Order accordingly. Rule is discharged.

(D.B.Bhosale, J.)